

REMARKS

Claims 1-20 are pending in this application. By this amendment, claims 1, 9, 14, and 18 are amended. The amendment is for clarification purposes only, and not for reasons for patentability. Reconsideration and allowance of this application are respectfully requested.

Allowable Subject Matter

Applicant appreciates the Examiner's acknowledgement that claims 8, 16 and 19 are allowable if rewritten in independent form to include all of the features of any base claim and any intervening claims. However, Applicant submits that claims 1-7, 9-15, 17-18 and 20 are also allowable in view of the foregoing amendments and remarks.

Claim Rejections – 35 U.S.C. §112, first paragraph

Claims 1-20 were rejected under 35 U.S.C. §112, first paragraph, as failing to comply with the enablement requirement. Specifically, the Examiner asserts that the claims fail to “explain how a value of a quantity of traffic can be calculated if said traffic has not been processed”. This rejection is respectfully traversed.

Applicant submits that “value of a quantity of traffic that has not yet been processed” (or “remainder” value) is, for example, the time that remains before another specific quantity of traffic is determined (e.g., a remainder value is equal to SA bytes minus the number of bytes processed by the SA). Applicant directs the Examiner to page 6, line 13 – page 7, line 4 in the instant specification for additional support.

Notwithstanding the above, Applicants has amended claims 1, 9, and 18 by removing the term “yet to be processed by said network element” in order further expedite prosecution of this application. Reconsideration and withdrawal of the rejections are respectfully requested.

Claim Rejections – U.S.C. §112, second paragraph

Claims 1, 2, 8, 9, 10, 14, 16, 18 and 19 were rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention.

With regard to the term “time period” and “periodic”, Applicant submits that the terms are adequately described in the specification, for example, on page 5, line 26 – page 6, line 12 in the instant specification, which describes that a “periodic basis” is selected according to parameters that will be known by a system manager, for example, 15 seconds. It is further submitted that one of the main criteria for selection of a time period is that the period may be smaller than the smallest known time block for transmitting a specified amount of data. In sum, Applicant submits that the specification adequately defines the term “periodic”.

With regard to claim 14, it has been amended to depend on claim 9. Withdrawal of the rejection is respectfully requested.

Claim Rejections – 35 U.S.C. §102

Claims 1-2, 6-7, 9-19, 14-15, and 16 were rejected under 35 U.S.C. §102(a) as being anticipated by Vaid et al. (“Vaid”), U.S. Patent No. 6,137,777. Applicant respectfully disagrees and traverses these rejections for at least the following reasons.

Each of the claims of the present invention includes, among other things, “a comparison mechanism for comparing a value of said weighted traffic flow per usage with a remainder value of said specific quantity of communications traffic, wherein an indication is given by said network element if said remainder value is less than said weighted traffic flow”.

In the Office Action the Examiner directs the Applicant to column 9, line 57 – column 10, line 41 of Vaid where it is alleged a “comparison” step is disclosed. However, after careful review of this excerpt and Vaid in its entirety, Applicant submits that Vaid is silent regarding a comparison of a value of weighted traffic flow per usage with a remainder value of a specific quantity of communications traffic, as in the claims of the present invention.

Because Vaid fails to disclose each and every feature of the claimed inventions, it cannot provide a basis for rejection under 35 U.S.C. §102.

For at least these reasons, claim 1 is patentable over Vaid. Claim 9 is also allowable for the similar reasons discussed above with regard to claim 1. Claims 2, 6, 7, 10, 14, 15 and 17 are allowable by virtue of their dependency on independent claims 1 or 9, and for the additional patentable features recited therein. Withdrawal of the rejections is respectfully requested.

Claim Rejections – 35 U.S.C. §103

Claims 3-5, 11-13, 18 and 20 were rejected under 35 U.S.C. §103(a) as being unpatentable over Vaid in view of Kent et al. (RFC 2401: Security Architecture for the Internet Protocol, November 1998) (herein after “Kent”). Applicant respectfully disagrees and traverses this rejection for at least the following reasons.

As discussed above, Vaid neither discloses nor suggests subject matter of claims 1 and 9; the independent claims from which the rejected claims depend. Further, Kent fails to overcome the noted deficiency of Vaid. Reconsideration and withdrawal of the rejections is respectfully requested.

CONCLUSION

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact John E. Curtin at the telephone number of the undersigned below.

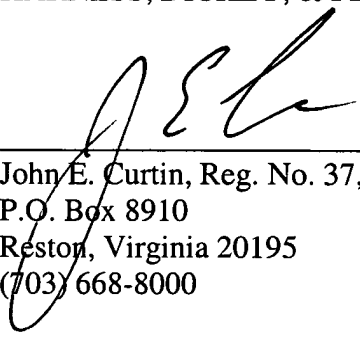
In the event this Response does not place the present application in condition for allowance, applicant requests the Examiner to contact the undersigned at (703) 668-8000 to schedule a personal interview.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 08-0750 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; particularly, extension of time fees.

Respectfully submitted,

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By



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